

104TH CONGRESS
1ST SESSION

S. 1138

To amend title XVIII of the Social Security Act to provide that certain health insurance policies are not duplicative, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 9 (legislative day, JULY 10), 1995

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide that certain health insurance policies are not duplicative, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Consumer
5 Protection Act of 1995”.

6 **SEC. 2. CERTAIN HEALTH INSURANCE POLICIES NOT**
7 **DUPLICATIVE UNDER MEDICARE.**

8 (a) IN GENERAL.—Section 1882(d)(3)(A) of the So-
9 cial Security Act (42 U.S.C. 1395ss(d)(3)(A)) is amended
10 to read as follows:

1 “(3)(A)(i) It is unlawful for a person to sell or issue
2 a health insurance policy, other than a medicare supple-
3 mental policy, to an individual entitled to benefits under
4 part A or enrolled under part B of this title with the
5 knowledge that such policy substantially duplicates health
6 benefits to which the individual is otherwise entitled under
7 this title or title XIX.

8 “(ii) Clause (i) shall not apply to—

9 “(I) a health insurance policy providing for ben-
10 efits which are payable to or on behalf of an individ-
11 ual without regard to other health benefit coverage
12 of such individual; or

13 “(II) a health insurance policy (or a rider to an
14 insurance contract which is not a health insurance
15 policy) providing benefits only for long-term care,
16 nursing home care, home health care, or community-
17 based care, or any combination thereof, that pre-
18 vents duplication by coordinating against or exclud-
19 ing items and services available or paid for under
20 this title, and such coordination or exclusion is dis-
21 closed in the policy’s outline of coverage.

22 For purposes of this subparagraph, a health insurance pol-
23 icy meeting the requirements of subclause (I) or (II) shall
24 be deemed to be nonduplicative and a State may impose
25 additional requirements with respect to duplication or non-

1 duplication under clause (i) only for policies not meeting
2 the requirements of such subclauses.

3 “(iii)(I) It is unlawful for a person to sell or issue
4 a medicare supplemental policy to an individual entitled
5 to benefits under part A or enrolled under part B of this
6 title with the knowledge that such policy duplicates health
7 benefits to which the individual is entitled under another
8 medicare supplemental policy.

9 “(II) A seller (who is not the issuer) shall not be con-
10 sidered to have violated this subparagraph if the policy
11 is sold in compliance with subparagraph (B) and the state-
12 ment under subparagraph (B) indicates on its face that
13 the sale of the policy will not duplicate health benefits to
14 which the individual is otherwise entitled under another
15 medicare supplemental policy.

16 “(iv) Whoever violates clause (i) or (iii) shall be fined
17 under title 18, United States Code, or imprisoned not
18 more than 5 years, or both, and, in addition to or in lieu
19 of such a criminal penalty, is subject to a civil money pen-
20 alty of not to exceed \$25,000 (or \$15,000 in the case of
21 a person other than the issuer of the policy) for each such
22 prohibited act. With respect to clause (iii), this clause shall
23 not apply to a seller until such date as the Secretary pub-
24 lishes a list of the standardized benefit packages that may
25 be offered consistent with subsection (p).”.

1 (b) MODIFICATION OF CERTAIN DISCLOSURE RE-
2 QUIREMENTS.—Section 1882(d)(3) of the Social Security
3 Act (42 U.S.C. 1395ss(d)(3)) is amended—

4 (1) in subparagraph (C)—

5 (A) by striking clauses (ii) and (iii);

6 (B) by striking “(i)”; and

7 (C) by striking the comma at the end and
8 inserting a period; and

9 (2) by striking subparagraph (D).

10 (c) EFFECTIVE DATE AND OTHER RULES.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments made by this section
13 shall take effect as if included in the enactment of
14 section 4354 of the Omnibus Budget Reconciliation
15 Act of 1990 (Public Law 101–508) (hereafter re-
16 ferred to as “OBRA–1990”) on November 5, 1990.

17 (2) DISCLOSURE REQUIREMENTS.—Any amend-
18 ment made by subsection (a) relating to disclosure
19 requirements for certain health insurance policies
20 shall take effect on the date that is 90 days after
21 the date of the enactment of this Act.

22 (3) NO PENALTIES.—No penalty shall be im-
23 posed under section 1882(d)(3)(A)(i) of the Social
24 Security Act (42 U.S.C. 1395ss(d)(3)(A)(i)) for any
25 act or omission occurring after the effective date of

1 the amendments made by section 4354 of OBRA-90
2 and before the date of the enactment of this Act re-
3 lating to any health insurance policy that—

4 (A) meets the requirements of section
5 1882(d)(3)(A)(ii) of the Social Security Act (42
6 U.S.C. 1395ss(d)(3)(A)(ii)) (as amended by
7 this Act), except that the disclosure require-
8 ment in subclause (II) of such section shall not
9 apply; or

10 (B) was sold or issued before the effective
11 date of the amendments made by section 4354
12 of OBRA-90.

13 (4) LIMITATION ON LEGAL ACTION.—No legal
14 action shall be permitted in any Federal or State
15 court if such legal action—

16 (A) includes any cause of action which
17 arose, or any act or omission which occurred,
18 prior to the date of the enactment of this Act;

19 (B) relates to the provisions of section
20 1882(d)(3)(A)(i) of the Social Security Act (42
21 U.S.C. 1395ss(d)(3)(A)(i)) or any policy subject
22 to the provisions thereof, with respect to the
23 sale, issuance, or renewal of any health insur-
24 ance policy;

1 (C) was filed after the effective date of the
2 amendments made by section 4354 of OBRA—
3 1990; and

4 (D) relates to any health insurance policy
5 that—

6 (i) meets the requirements of section
7 1882(d)(3)(A)(ii) of the Social Security
8 Act (42 U.S.C. 1395ss(d)(3)(A)(ii)) (as
9 amended by this Act), except that the dis-
10 closure requirement in subclause (II) of
11 such section shall not apply; or

12 (ii) was sold or issued before the ef-
13 fective date of the amendments made by
14 section 4354 of OBRA-90.

15 (5) EXCLUSIVE REMEDIES.—Notwithstanding
16 any other provision of law, the remedies provided for
17 in section 1882(d)(3) of the Social Security Act (42
18 U.S.C. 1395ss(d)(3)), as amended by this section,
19 are the exclusive remedies available with respect to
20 the non-duplication requirements described in such
21 section.

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